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Application Number	09/578,672
Filing Date	5/25/2000
First Named Inventor	Cynthia Donovan
Art Unit	2145
Examiner Name	Mirza, Adnan
Attorney Docket Number	1112

Total Number of Pages in This Submission

18

ENCLOSURES (Check all that apply)

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IN THE

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Cynthia Donovan et. al.

SERIAL NO: 09/578,672

FILING DATE: 5/25/2000

TITLE: METHOD AND APPARATUS FOR CONTROLLING ACCESS TO A WEBSITE

GROUP ART UNIT: 2145

ATTY DOCKET NO: 1112

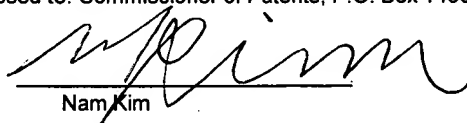
EXAMINER Mirza, Adnan

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APPEAL BRIEF UNDER 37 C.F.R. 1.192

SIR:

In support of the appeal of the above-referenced case:

Adjustment date: 02/11/2008 SSANDARA
12/27/2006 JADD01 00000002 09578672
01 FC:1402

-500.00 OP

02/11/2008 SSANDARA 00000008 09578672

01 FC:1402

510.00 OP

1. Real Party in Interest.

The real party in interest is Charles Schwab & Co.,
Inc.

2. Related Appeals and Interferences.

5 Prosecution was reopened following receipt of
Applicants' prior appeal brief. There are no other related
appeals and interferences.

3. Status of Claims.

All claims are rejected. Claims 1, 14, and 27 are
10 being appealed after prosecution was reopened and an office
action was issued following receipt of Applicants' prior
appeal brief.

4. Status of Amendments.

Amendments A-E were filed and entered in the
15 application.

5. Summary of Claimed Subject Matter.

Claim 1 recites, "A method of processing a first
request for web page, comprising:"

"receiving the first request for the web page; and"

20 (page 39, line 18)

"transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp."
(page 41, lines 3-11)

5 Claim 14 recites, "A computer program product comprising a computer useable medium having computer readable program code embodied therein" (page 9, lines 2-4) "for processing a first request for web page, the computer program product comprising:"

10 "computer readable program code devices" (page 9, lines 2-4) "configured to cause a computer to receive the first request for the web page; and" (page 39, line 18)

 "computer readable program code devices" (page 9, lines 2-4) "configured to cause a computer to transmit, to
15 a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp." (page 41, lines 3-11)

 Claim 27 recites, "An apparatus for processing a first request for a web page, the apparatus comprising:"

20 "a user request router having an input coupled to an apparatus input operatively coupled for receiving the first request," (page 15, lines 16-18; page 16, lines 6-8) "the user request router for providing at an output a signal

responsive to the first request received at the user
request router input; and" (page 20, lines 15-16)

"a cookie/applet generator having an input coupled to
the user request router output for receiving the signal,"

5 (page 20, lines 15-16) "the cookie/applet generator for
providing, to a device from which the first request was
received, via a first output coupled to an apparatus
output, a first indicator of at least one time to send a
second request for the web page." (page 20, lines 16-23;
10 page 18, lines 1-12)

6. Grounds of Rejection to be Reviewed on Appeal.

Examiner rejects claims 1, 14, and 27 under 35 U.S.C.
103(a) as being unpatentable over Christensen (6,330,605)
and Sixtus (U.S. 5,903,721).

15 7. Argument.

A. Claims 1 and 14 Are Patentably Distinguishable Over
Christensen and Sixtus Because Christensen and Sixtus Do
Not Teach Or Suggest All the Claim Limitations, Either
Alone or In Combination.

20 Claim 1 recites, "receiving the first request for the
web page; and transmitting, to a device from which the
first request was received, at least one command to send a
second request for the web page".

Claim 14 recites, "computer readable program code devices configured to cause a computer to receive the first request for the web page; and computer readable program code devices configured to cause a computer to transmit, to
5 a device from which the first request was received, at least one command to send a second request for the web page".

After reopening prosecution after receiving Applicants' first appeal brief, Examiner now asserts in
10 reply "However Christensen did not go into details of transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp". Applicants didn't see anything in the most recent office action that stated
15 that Christensen described these features generally, so we interpret this to mean Christensen doesn't show this claimed feature at all.

What then follows in the office action is less clear. Applicants cannot fathom how what Examiner states next
20 bolsters his case and why prosecution was reopened in order to make this statement, but the following statement comes next in the Official Action:

In the same field of endeavor, Sixtus disclosed "As a first function of the received user registration number, the received timestamp data, and the calculated user matrix; calculating an expected network protocol port number as a second function of the received user registration number, the received timestamp data and the calculated user matrix.

The claim language bears repeating at this point. For example, claim 1 recites, "receiving the first request for the web page; and transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp".

Examiner's cited reference does not transmit to a device from which a first request was received, at least one command to send a second request for the same web page, and a timestamp as claimed. All the reference appears to do is to receive timestamp data at a server from a device, and then calculate a port number.

The claim language transmits, to a device from which a request for a web page was received, a command to send a second request for the very same web page, and transmits to a device from which the request for the web page was received, a timestamp. Sixtus transmits a timestamp in the

opposite direction claimed, not to a device from which a first request was received, and none of the references addresses transmitting to a device from which the first request was received a command to send a second request for
5 the same web page, as claimed.

Thus, the references are distinguishable.

2. Claim 27 Is Patentably Distinguishable Over Christensen and Sixtus Because Christensen and Sixtus Do Not Show the Claim Feature of a Cookie/Applet Generator for
10 Providing, to a Device from Which the First Request was Received, a First Indicator of at Least One Time to Send a Second Request for the Web Page.

Claim 27 recites, "a user request router having an input coupled to an apparatus input operatively coupled for
15 receiving the first request, the user request router for providing at an output a signal responsive to the first request received at the user request router input; and

a cookie/applet generator having an input coupled to the user request router output for receiving the signal,
20 the cookie/applet generator for providing, to a device from which the first request was received, via a first output coupled to an apparatus output, a first indicator of at least one time to send a second request for the web page"

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be
5 considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Cited in M.P.E.P. 2143.

The fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to
10 establish the inherency of that result or characteristic. *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993); *In re Oelrich*, 666 F.2d 578, 581-82, 212 USPQ 323, 326 (CCPA 1981). "To establish inherency, the extrinsic evidence 'must make clear that the missing
15 descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may
20 result from a given set of circumstances is not sufficient.'" *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950-51 (Fed. Cir. 1999) (citations omitted). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to

reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter.1990)

5 There is no structure coupled to a structure that receives a first request for a web page that provides to a device from which the first request was received, via a first output coupled to an apparatus output, a first indicator of at least one time to send a second request for
10 the web page, as claimed. Sixtus has a user computer system that sends a time a transaction was requested (Col. 10, lines 3-7), but there is no structure that sends an indicator of at least one time to send a second request for the same web page the device requested, as claimed. Nor is
15 such a structure inherent because Sixtus doesn't do anything that would require such a time to be sent. Christensen also does not show this claimed feature.

Because not all the limitations of claim 27 are taught or suggested by Christensen or Sixtus, either expressly or
20 inherently, alone or in combination, Examiner has not made a *prima facie* case of obviousness, and the 103 rejection of claim 27 should be reversed.

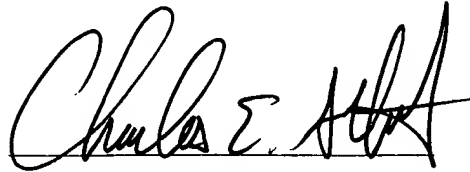
Conclusion

Claims 1, 14, and 27 are patentably distinguishable
over the cited references. Favorable action is solicited.

Respectfully Submitted

January 30, 2008.

5

A handwritten signature in black ink, appearing to read "Charles E. Gottlieb", written over a horizontal line.

Charles Gottlieb

Reg. No. 38,164

10

Innovation Partners

540 University Ave.

Suite 300

Palo Alto, CA 94301

8. Claims Appendix.

1. A method of processing a first request for web page, comprising:

receiving the first request for the web page; and

transmitting, to a device from which the first request
5 was received, at least one command to send a second request for the web page, and a first timestamp.

14. A computer program product comprising a computer useable medium having computer readable program code embodied therein for processing a first request for web page, the computer program product comprising:

5 computer readable program code devices configured to cause a computer to receive the first request for the web page; and

computer readable program code devices configured to cause a computer to transmit, to a device from which the
10 first request was received, at least one command to send a second request for the web page, and a first timestamp.

27. An apparatus for processing a first request for a web page, the apparatus comprising:

a user request router having an input coupled to an apparatus input operatively coupled for receiving the first

5 request, the user request router for providing at an output
a signal responsive to the first request received at the
user request router input; and

a cookie/applet generator having an input coupled to
the user request router output for receiving the signal,
10 the cookie/applet generator for providing, to a device from
which the first request was received, via a first output
coupled to an apparatus output, a first indicator of at
least one time to send a second request for the web page.

9. Evidence Appendix.

15 No evidence appendix is being submitted.

10. Related Proceedings Appendix.

There are no related proceedings, therefore Applicants are not submitting a related proceedings appendix.